

A Guide to Korean Antitrust Law

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Abstract

Korean antitrust law is embodied in the Monopoly Regulation and Fair Trade Act ("MRFTA" or the "Act"), and the scope of the Act extends to a variety of topics including fair trade, antitrust, competition, consumer protection, and deregulation. Accordingly, it can be stated that the Act embodies a broader regulatory scope than of similar legislation in countries such as the United States. The official website of the relevant governmental authority (in this case the Korea Fair Trade Commission (<http://www.ftc.go.kr/>)) should be among the first resources consulted when commencing research on such a specialized subject as Korean antitrust law. In addition, the government portal site found at <http://www.egov.go.kr/> offers significant assistance in locating relevant official information resources. Moreover, currently in Korea, most civil servants who are entrusted with administration of antitrust regulations are not lawyers but rather specialists in economics or policymaking. Therefore, it is important to encompass not only legal and administrative materials, but also economic materials when studying Korean antitrust law.

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The material covered in this paper is complemented by introductory material contained in the author's "Introduction to Korean Legal Materials," which is published in the Journal of Korean Law (Brain Korea Law 21 Program, Seoul National University College of Law), Vol.2, Number 1, 2002, pp.125-166. Readers who are new to the study of Korean law are advised to familiarize themselves with the information covered in this general introductory guide before proceeding further with this specialized guide on antitrust law. This guide was prepared at the contemporaneously with the introductory guide, using the same Romanization and citation rule. However, most of the information cited herein was checked again in July of 2002. Readers are advised that the figures provided citing the results obtained in various sample searches of particular library or other bibliographic databases refer to the number of results obtained at the time the searches were conducted by the author. Although the same searches might yield different numbers of results if conducted at an earlier or later date, the figures provided should give the reader a sufficiently general idea of the scope and quantity of materials currently available.

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I. Introduction

A. *Purpose and Scope of this Guide*

1. Purpose

This guide was prepared with two main points in mind: first, to provide basic information regarding Korean antitrust law, and second, to provide researchers abroad with an introduction to specific examples of Korean legal materials. In order to facilitate and improve the understanding of the subject, the article will also describe in general outline form the Korean antitrust system. In consideration of the stated purpose, this article can, to some extent, be used as a general introductory guide to Korean antitrust law.

The task of pursuing in depth research in Korean antitrust law requires some Korean language ability, but aside from this potentially restrictive requirement, Korean antitrust law research can be a relatively easy task to pursue, since the basic law in this area was enacted as recently as 1980. Moreover, most information related to antitrust law is publicly available through various media, with the exception of information classified as “business secrets.”

As a general rule, antitrust regulation derives its theoretical foundation from both law and economics. In Korea, most civil servants entrusted with administration of antitrust regulations are not lawyers but economists and policymakers. Therefore, it is important to include in the study of Korean antitrust law not only legal and administrative materials, but also economic materials. In view of this perspective, this guide was written for lawyers and non-lawyers alike.

2. Scope

To be precise, there is no “antitrust” legislation in Korea, although one will encounter the term “Korean antitrust law” from time to time. The official name of the legislation embodying Korean antitrust law is “the Monopoly Regulation and Fair Trade Act (MRFTA: 독점규제 및 공정거래에 관한 법률).” The short form title is “the Fair Trade Act (공정거래법).” The scope of the Act extends to a variety of topics including fair trade, antitrust, competition, consumer protection, and deregulation. Accordingly,

the Act does regulate a broader range of business and commercial activities compared to antitrust legislation in such countries as the United States. Notwithstanding, the term “antitrust” is used widely in this paper for the sake of consistency with the prevailing practice observed in most English-language materials on the subject and as a reflection of the fact that many Korean antitrust specialists have studied in the United States.

This guide concerns only Korean domestic antitrust law. International aspects of antitrust law are usually dealt with as an independent subject within the purview of international trade law. Since domestic antitrust problems in Korea tend to have minimal relation to international treaties, this guide does not cover treaty-related items.

B. Basic Reference Materials in English

James J. Garrett (ed.), *World Antitrust Law and Practice: A Comprehensive Manual for Lawyers and Businesses*, New York: Aspen Law & Business, 1999 Supp.¹⁾

A collection of introductory materials published in loose-leaf format, this is a good source for general information regarding the basic structure of antitrust law in different countries. The Korean antitrust system is discussed in Part 3, Chapter 36, pages 1-34. This discussion covers the history of Korean antitrust policy as well as substantive law, enforcement, and brief practice tips.

Sang-Hyun SONG (ed.), *Korean Law in the Global Economy*. Seoul, Pakyoungsa, 1996, 1500 pages.²⁾

This book is a compilation of various articles on Korean law. Topics covered include historical perspectives, constitutional law, dispute resolution, business and commercial law, banking and securities, intellectual property, trade law, and economic regulation, among others. In particular, Chapter 14 is titled “Administrative and Economic Regulations” (at pages 1245-1301) and includes information on the early period of development of the current antitrust system in Korea.

Lexis: Martindale-Hubbell International Law Digest ³⁾

1) Harvard-ILS RR K3850.W67.

2) Harvard-ILS KOR 903 KOR43 1996.

3) Legal(Excluding U.S.) > Multinational Publications > Law Digests. The print version, the Law Digest, is published as part of the 27-volume Martindale-Hubbell Law Directory, or as a separate three-volume set.

A search of the Country (“korea”) & Topic (“competition”) fields retrieves one result, an entry titled “Monopolies, Restraint of Trade and Competition,” which provides a brief overview of the subject as a basis for further research.

Monica Jainschigg (ed.), *Doing Business in the Republic of Korea*, Price Waterhouse, 1996, 214 pages.⁴⁾

Chapter Six of this book includes a brief description of the “Regulatory Environment” at pages 47-49. Unlike other volumes in the *Doing Business* series, the volume covering Korea probably lacks substance and depth to be of any use for most research purposes.

*C. Korea Fair Trade Commission (FTC/KFTC)*⁵⁾

The Korea Fair Trade Commission (KFTC) regulates the market economy in Korea. The powerful legal framework created by the MRFTA empowers the KFTC to perform its regulatory duties over monopolies. The KFTC’s efforts are ultimately directed toward preventing or minimizing behaviors that are deemed to limit or threaten consumer choice. The KFTC was established in 1981 as an administrative organ of the Korean government,⁶⁾ and although it is an independent quasi-judicial institution, the KFTC retains the character of an administrative organization due to its important policy-making functions.

The KFTC is administratively part of the Office of the Prime Minister and comprises nine commissioners, including the chairman. The chairman and vice-chairman are appointed by the President subject to the recommendation of the Prime Minister, while the remaining commissioners are appointed based upon the recommendation of the chairman. The KFTC is composed of a committee, a secretariat, and four regional offices located in major metropolitan cities. The full committee is presided over by the chairman with the participation of all nine members duly elected and seated. The committee deliberates on matters related to the enactment, revision, modification, or interpretation of acts, decrees, or notifications pertaining to

4) Harvard-ILS RR K1001.4.P74K6.

5) The following introduction is taken from the KFTC’s website at <http://www.ftc.go.kr/english/htm1/index.htm>.

6) On KFTC’s history, please see <http://www.ftc.go.kr/english/htm1/index.htm>.

fair trade. The committee also provides administrative decisions in cases where objections have been filed. Decisions of the full committee require the concurrence of a majority of the members. The subcommittee is composed of one standing commissioner and two non-standing commissioners and decides on ordinary cases or matters referred to it by the full committee. Decisions of the subcommittee require the unanimous consent of its members, and subcommittee meetings are presided over by each standing commissioner.

D. Background Information on Chaebols

The term “chaebol” refers to a particular form of Korean corporations that are organized as conglomerates. Chaebols have played and continue to play a leading role in the development of the Korean economy. Familiarity with the chaebol is an essential prerequisite to understanding Korean political economy.⁷⁾ In the area of antitrust, background knowledge of the chaebol is especially important since almost all Korean antitrust problems involve the chaebol in a significant way.⁸⁾

Cooperation between the Korean government and the chaebol was essential to the period of rapid economic growth that began in the early 1960s. Driven by the urgent need to turn the economy away from consumer goods and light industries toward heavy, chemical, and import-substitution industries, politicians and government planners relied heavily upon the ideas and cooperation of chaebols. Over time, however, this pattern of industrialization led by chaebols accelerated the monopolistic and oligopolistic concentration of capital and economically profitable activities in the hands of a limited number of conglomerates.

7) To obtain general knowledge on the chaebol, please see the following books:

Harvard-Yenching: (W) HD2756.2.K8 K347 1996: Myung Hun KANG, *The Korean Business Conglomerate: Chaebol Then and Now*, Berkeley, Calif.: Institute of East Asian Studies, University of California, Berkeley, 1996, 254 pages.

UW-Marian KF 213 Th 44183: Kon Sik KIM, *Chaebol and Corporate Governance in Korea*, Ph.D. Dissertation, University of Washington, School of Law, 1995, 244 pages.

8) Many official websites and other well-known portal sites in the United States do not maintain accurate and up-to-date information with respect to Korea. For example, the country study file of the Library of Congress (<http://lcweb2.loc.gov/frd/cs/krtoc.html>) is both obsolete (as of July 2002, the file had been updated most recently in

E. Antitrust related Keywords

1. For the Korean-Language Resources

Jong-Hwa LEE (이종화)(ed.), Kongjong Korae Yongo Sajon, Dictionary of Fair Trade Terminology (공정거래용어사전), Seoul, Sung-rim Publishing co., 1995, 248 pages.⁹⁾

As the title suggests, this Korean-language dictionary contains definitions of antitrust-related legal and economic terms and usages. This dictionary can be helpful for non-Korean scholars accustomed to the Korean language in confirming the meaning of antitrust-related Korean legal terms.

When searching for catalogs which are based upon the Korean language or permit the input and display of Korean characters, the following search terms should be used:

monopoly (독점), fair trade (공정거래), The Monopoly Regulation and Fair Trade Act = The Fair Trade Act (공정거래법), The Korea Fair Trade Commission = (K)FTC (공정거래위원회), antitrust ([안티]트러스트), unfair competition ([부당]경쟁), price maintenance (가격유지), conglomerate corporation (기업결합), FTC decisions (심결), chaebol (재벌), regulation (규제).

2. For the Resources in the U.S. including English-language materials

When searching in the English-language using U.S. library catalogs, the following search terms should be used:

[LC subject headings]: antitrust law; competition unfair; conglomerate corporation; price maintenance; commercial crime; industrial concentration; consolidation and merger of corporations; cartels; trusts, industrial; monopolies.

[Non-LC subject heading keywords]: antitrust; fair trade; chaebol.

The Library of Congress subject headings are designed to facilitate efficient subject

1990) and inaccurate. Moreover, because the file is expected to be purged in the near future, it should not be cited.

9) For materials originally published in English, the official English title is used herein whether or not a Korean-language edition is available. For materials originally published in Korean, but with either an official English title or an official Romanized Korean title, the English or Romanized title is listed first, followed by the Korean title in parentheses. For materials published in Korean without an English title, the Korean title is listed first, followed by the

searches,¹⁰⁾ and retrieves both English and Korean materials, even if English search terms are used. If a keyword that is not an LC subject heading is included during a subject search, the screen will not retrieve any results, but it will show some related subject headings. To the extent that one is aware of this function, it is not necessary to be restricted to LC subject headings when performing subject searches.

3. Sample Search on the Hollis Catalog of Harvard University¹¹⁾

su antitrust law—korea (11)

kw “antitrust law” and korea (18) = kw antitrust and korea (18)

kw conglomerat? and korea (76)

kw “fair trade” and korea (6)

kw chaebol (93)

The official title of the main Korean antitrust law, known as the Monopoly Regulation and Fair Trade Act, does not include the word “antitrust.” Nevertheless, many domestic and international resources have classified this law under the categories of antitrust law or competition law. Thus, using the word “antitrust” in keyword searches is an efficient way to locate relevant materials outside Korea. Indeed, although the MRFTA includes the term “fair trade” in place of “antitrust,” the word “antitrust” will actually retrieve more results in the sample keyword search depicted above. The Korean word “chaebol” (meaning “Korean conglomerate”) is also a useful keyword for such searches.

Keyword (KW) searches are better than Subject (SU) searches when using LC subject headings for unfamiliar jurisdictions.¹²⁾ Moreover, when performing a KW search, it is better to use non-LC subject headings than to use precise LC subject headings.¹³⁾ This method, however, should not be used for research on major

author’s unofficial Romanization or translation italicized in parentheses.

10) The print version is commonly referred to as the “Big Red Book.” The latest version is the 25th edition of 2002 (LCSH 25). Harvard-Langdell Ref Z695 .Z8 .L5w4a: Library of Congress Subject Headings, 25th ed. Cataloging Distribution Service, 5 vols., 2002.

11) The Harvard Library updated its catalog search system in July 2002.

12) For example, on Hollis, “su competition unfair—korea” retrieves 10 results, whereas “kw “competition unfair” and korea” retrieves 16 results.

jurisdictions, as it is likely to yield too many irrelevant results. When searching for materials of a jurisdiction with a more limited number of available resources, it may be necessary to expand the search terms beyond the LC subject headings. In the same context, when searching commercial databases such as Westlaw or Lexis, it is generally not necessary to perform proximity searches using /n, /s, or /p parameters since the volume of available Korea-related materials is insufficient to justify their use. In addition, if any catalog search yields no results or a very small number of results, the search should not be restricted by using antitrust-related keywords. In such cases, general SU or KW searches using search terms “law-korea” or “law & korea” are preferable.¹⁴⁾ In many cases, using the term “Korea” is better than using the term “Korea, South.”¹⁵⁾ In other words, even after subtracting all of the irrelevant results pertaining to North Korea, the number of results obtained using the term “Korea” will still be larger than the number obtained using the search term “Korea, South.”

Finally, when researching the current Korean antitrust law, it is useful to use the date restriction “//yr>1980” because the law was enacted in 1980 and went into effect in 1981.¹⁶⁾ Obviously, this should not be done for searches performed in connection with research into the history of antitrust regulation in Korea prior to enactment of the current law.

II. Korean Antitrust Laws

A. Purpose of the Laws

Korea Fair Trade Commission, Korea’s Fair Trade System (우리나라 공정거래제도), Seoul, May 2001, 64 pages.

The stated purpose of Korean antitrust law is to promote free and fair economic

13) For example, on Hollis, “kw “competition unfair” and korea” retrieves 16 results, whereas “kw competition and korea” retrieves 60 results.

14) For example, on Hollis, “su antitrust law—korea south—bibliography” retrieves no results. However, “su law—korea south—bibliography” retrieves 2 results, which can then be checked for relevance.

15) Thus, with respect to the above footnote, “su law—korea—bibliography” retrieves 5 results, all of which are South Korean bibliographies.

16) For this reason, resources published prior to 1981, such as Chung-Sook BAIK (comp.), Korean Law: An Annotated Bibliography of English-language Monographs, Washington, D.C.: Law Library, Library of Congress,

competition by prohibiting the abuse of market-dominant positions and the excessive concentration of economic power, and by regulating improper concerted acts and unfair business practices, thereby stimulating creative business activities, protecting consumers, and promoting the balanced development of the national economy.

B. Historical Background of the Laws

After the first oil shock of 1972, the Price Stabilization Act was enacted in 1973. By 1976 this law had evolved into the Price Stabilization & Fair Trade Act and featured a new focus on fair trade regulation. Nevertheless, the Korean economy remained disproportionately monopolized relative to its level of economic development. Shortly thereafter, the MRFTA went into effect in 1981. As a supplementary measure, the Omnibus Cartel Repeal Act was enacted in 1999 to regulate undue concerted activities, which had previously been outside the scope of the MRFTA.

Detailed information on the MRFTA up to its sixth amendment is available in the following published source:

Korea Fair Trade Commission, History of Korea Fair Trade Acts: From the Enactment to the 6th Amendment (공정거래법변천), 1998, 538 pages.

Information up to the latest revision is available on the KFTC website at <http://ftc.go.kr/english/html/index.htm>.

From the Korean version of the KFTC website, click on Information on the Acts (법령 정보), followed by History of Korea Fair Trade Acts (공정거래법 변천사), to access collations of the acts and each successive amendment. For miscellaneous materials pertaining to particular amendments, click on Fair Trade Related Information (공정거래관련 정보), then Reference Room (자료실), and finally Miscellaneous Materials (자료실-기타).

C. Korean Antitrust Laws in Korean

1. Overview of the Current Korean Antitrust Law

(a) Acts

The Monopoly Regulation and Fair Trade Act
Adhesion Contracts Act

Fair Subcontract Transactions Act
Fair Labeling and Advertising Act
Omnibus Cartel Repeal Act

(b) Enforcement Decrees

Enforcement Decree of the Monopoly Regulation and Fair Trade Act
Enforcement Decree of the Adhesion Contracts Act
Enforcement Decree of the Fair Subcontract Transactions Act
Enforcement Decree of the Fair Labeling and Advertising Act

(c) Notifications and Guidelines

Notification on M&A Review Guidelines
Fair Trade Commission Notification

2. Antitrust-Related Laws in General Codes

Antitrust-related laws are normally found under “Economy-related part (경제 편)” of the codified laws. They are organized in the order of Act (법), Enforcement Decree (시행령), and Enforcement Regulation (시행규칙). A law consists of the title, the enactment number and date, the amendment numbers and dates, the provisions, and addenda. Notifications and Guidelines are usually not included in the general codes, but in the special codes for antitrust-related laws.

3. Antitrust-Related Special Codes

(a) Official Publications:

Fair Trade Related Codes (공정거래 관련 법규집), Korea Fair Trade Association, 2001, 909 pages.

This resource contains an extensive collation of Acts, Enforcement Decrees, Enforcement Regulations, Notifications, Guidelines, and KFTC sample decisions.

(b) Official Internet Sources: <http://www.ftc.go.kr/>.

From the KFTC homepage, one may follow the link “Acts Search (법령조회)” found under “Information on the Acts (법령정보)” in order to access specific acts and other laws. Materials are arranged in the following order: Acts, Enforcement Decrees, Enforcement Regulations, Notifications, and Guidelines. Notifications are indicated by year - (dash) specific number, whereas Guidelines are arranged by year-month-day.

Antitrust-related bills or amendment materials are also found on the Korean website. Click on Notice on the Bill (입법예고) under “Information on the Acts (법령정보).” Alternatively, follow the links under “Fair Trade related Information (공정거래관련정보)” to the Reference Room (자료실)” and then to “Miscellaneous Materials (자료실-기타).” Items containing words such as Bill (법률안), Legislative Materials (입법자료), or Amendment (개정) are best for search purposes.

4. Current Statutes of the Republic of Korea

(대한민국 현행 법령집 Taehanminguk Hyonhaeng Pomnyongjip)

This loose-leaf service by the Korean Legislation Research Institute (“KLRI”) is the only complete collection of major and subordinate acts, including treaties, and is supplemented monthly. The set consists of 50 numbered volumes, with the 50th volume as the index. The whole set is organized by broader subject categories, and on the red cover of each volume are listed keywords for the various acts. The antitrust-related laws can be found in Volume 21. The cover lists the keyword “Economy (경제),” that is, Finance and Economy in General (제정경제일반)(2) Market Price and Fair Trade (물가공정거래), Chapter 9 — page 1315 ff.

The same materials can be found by searching the Ministry of Legislation website at <http://www.moleg.go.kr/>.

5. History of the Enactment, Amendment, and Repeal of the Statutes

(대한민국 법률연혁집 Taehanminguk Pomnyul Yonhyokchip)

This 32-volume loose-leaf service by the KLRI is subdivided into 41 parts by category. The 32nd volume contains the index, and on the blue cover of each volume are listed keywords for the various acts. In order to perform historical research on the

Korean antitrust system, Volume 14, Part 18: Public Finance and Economy in General should be consulted.

An on-line version of the service is also available on the Ministry of Legislation website at <http://www.moleg.go.kr/>. The on-line version supports Korean-language keyword searches by organization, legal area, or name of act. It also provides a 3-column-compare system.

D. Korean Antitrust Laws in English

1. Monopoly Regulation and Fair Trade Acts (MRFTA)

<http://www.ftc.go.kr/english/html/index.htm>

This site provides full-texts of the antitrust law, decrees, notification, and guidelines as DOC files. Follow the links under “Antitrust Law” to access the desired file.

2. Economy-Related Laws¹⁷⁾: Economic Laws on Foreign Investment in Korea

<http://www.moleg.go.kr/mlawinfo/english/htms/list01.html>

This section of the Ministry of Legislation website contains many corporate and trade-related acts, including basic laws such as the Constitution. Files are available in English in html format and in Korean in Arae-Ah Hangul (HWP) format and can be downloaded at no charge.

3. Major Laws and Regulations

<http://www.korea.net/government/government.html>

This site brings together a number of Korean laws and regulations in English from

1980, 14 pages (Harvard-ILS KOR 020 BAI), are unlikely to of much relevance to the current Korean antitrust law.

17) See also Woonsang CHOI, Commercial, Business, and Trade Laws, Republic of Korea, loose-leaf, 1984 (Harvard-ILS KOR 329C F84). This resource, which consists of two binders, includes a number of important laws related to the economy. Antitrust-related laws are found in Binder I, Part 5, Page 19, et seq. Although the collection is shelved in the ILS Reading Room as a primary source, unfortunately it was never updated and the laws cited therein are

various government sites. The site is free and includes acts related to the economy and economic regulation.¹⁸⁾

4. Statutes of the Republic of Korea

This is the English-language loose-leaf service (영문 대한민국 현행 법령집) of the Current Statutes of the Republic of Korea (대한민국 현행 법령집). The English version was published in 1997,¹⁹⁾ and is supplemented quarterly. The entire set consists of only 20 volumes, not 54 volumes, and does not include all of the materials contained in the Korean version. Each volume contains an Alphabetical List of Acts. The latter half of the 20th volume contains the index for the entire series. The economy-related acts can be found by referencing the keywords on each volume's green cover. Antitrust laws are scattered throughout Volume 8: Finance & Economy in General, and Volume 13: Commerce, Trade & Industry.

The Statutes of the Republic of Korea²⁰⁾ are available on the Ministry of Legislation website at <http://www.moleg.go.kr/>. The site permits Korean-language searches by order, subject, acts name, keyword, and promulgation date and number. A desired law or statute can also be found by browsing the Table of Contents. Access to this service requires a fee-based annual membership. The Table of Contents can be browsed for free at http://www.klri.re.kr/LIBRARY/statute_book_e_contents.html

III. Antitrust Litigation

A. Jurisdiction

Any individual may report a violation under the Act to the KFTC, or the KFTC may investigate possible violations of the Act at its own initiative. If the results of an

only current as of the date of publication. Accordingly, it should not be cited other than for historical research purposes.

18) Additionally, a number of government websites contain Korean acts in English from various sponsoring agencies or institutions. For example, the National Assembly site includes several constitution-related acts, the Korea Investment Service Center contains foreign investment-related laws under the "Information Center" section of its website, and the Ministry of Government Administration and Home Affairs provides certain relevant acts on its English version website.

19) As already explained in the Introduction to Korean legal materials, footnote 56, there are various outdated and

investigation reveal that the alleged violation of the Act is significant, the case is submitted to the KFTC. The KFTC will render a decision after the party in question has been given an opportunity to put up a defense. The decision may include an order for rectification of the violative act, an order for payment of a surcharge or even the filing of a criminal complaint. The defendant may first appeal final decisions issued by the KFTC to the Seoul High Court and subsequently to the Supreme Court. Apart from filing a report to the KFTC, parties alleging fair trade violations may file suits for compensatory damages with the Seoul Administrative Court. In the past, the exhaustion of administrative remedies was a prerequisite for filing an administrative action with the court. However, pursuant to the revised rule in effect as of March 1, 1998, an administrative action may be filed without first resorting to administrative remedies, unless the law provides otherwise.

B. KFTC Decisions

All antitrust-related cases are handled primarily by the KFTC. Although the KFTC is a government organization, it is also considered a quasi-judicial agency. A party who is not satisfied with a decision (심결) of the KFTC can appeal to the full committee (재결). Alternatively, the party can resort to the ordinary court procedures by filing a complaint with the administrative court. Thus, KFTC decisions can be considered administrative decisions in the broader sense of the meaning.

1. Official Collections: KFTC Decision Reports (공정거래위원회의심결집)

This collection includes the full text of important decisions, arranged by the category of violations. The series was published annually from 1981 to 1995 and quarterly thereafter.

The various headings [의결 제 91-105 호, 사건번호: 9108하560] have the following meanings: “의결” means KFTC Resolution; “제 91” means the year 1991; “105 호” means the 105th resolution of the year 1991; “사건번호” means case number. “9108” means that the case was filed in August of 1991; “하” is an abbreviation of Subcontract

obsolete versions of Korean statutes, which should not be cited.

20) The service may be accessed via Korean on-line services such as Chollian or Hitel (go kold) for a time-based

Case (하 토크), and “560” is the case number.

2. Official Internet Resources: KFTC Decision Information (심결정보)

<http://www.ftc.go.kr>

The full text of decisions from 1981, the year in which Korean antitrust law went into effect, are available on the KFTC website. Decisions are available in TEXT, HTML, HWP, and BMP file formats, and cases are arranged by category of violation and disposition. The database is searchable by date and keyword using boolean operators. Searching by category of violation yields good results, while searching by keyword also produces reasonably good results.

C. Korean Court Cases

1. Lower Court Report (하급심판결집 Hagupsim Pangyolchip)

The Administrative Court, which is a special lower court of the district court, is authorized to handle antitrust cases. Upon initial commencement of a suit at the Administrative Court level, an antitrust case follows the same route on appeal as any other cases: appeal first to the High Court and subsequently to the Supreme Court. The Administrative (district level) Court and the High (appellate level) Court cases are collected in “Lower Court Report (하급심판결집).” This series is published semi-annually by the Supreme Court Library. Each volume contains a Table of Contents in the front, with the format otherwise following that of the Supreme Court Report series.

Prior to the establishment of the Administrative Court in 1998, the Seoul High Court was the court of first resort for administrative litigation and was available only after a litigant had exhausted all available remedies through the relevant administrative organ. Accordingly, the High Court decisions in the series which are most relevant were decided between 1980 and 1998. For cases decided after March of 1998, however, it is necessary to consult both the High Court and District Court decisions. Under current law, however, an administrative action may now be brought directly to the Administrative Court without prior resort to remedies available through administrative organs.

A searchable database of antitrust cases is also found on the Supreme Court’s web site at <http://www.scourt.go.kr/>. For example, a search for the keyword fair trade (공정

거래), limited to lower courts (하급심), yields a number of results. The citation of a representative example, 서울고법 1997. 7. 31. 선고 96구21388 [하집1997-2, 494], may be interpreted as follows: “서울고법” indicates that it is a Seoul High Court Case; “1997. 7. 31. 선고” means that the decision was announced (선고) on July 31, 1997; “96구21388” denotes the case number; and “[하집1997-2, 494]” indicates that the case was reported in the Lower Courts Report (하급심판결집), 2nd volume of the year 1997, starting at page 494.

2. Supreme Court Decisions Report (판례공보 Pallye Kongbo)

This series includes selected Supreme Court decisions published by the Supreme Court Library within one or two months following announcement. The name of this series has recently been changed. From 1962 to 1995 it was known as the Pobwon Kongbo (법원공보), but from 1996 on it has been known as the Pallye Kongbo (판례공보). At the time of the name change, issues were renumbered to start from 1. The series is published semi-monthly on the 1st and 15th of each month for a total of 24 issues per year, and uses consecutive pagination throughout the year. Although researchers were previously forced to rely on semi-annual indexes published on June 15th and December 15th of each year as well as Cumulative Indexes that were published once per decade, it is now possible to check citations on the Supreme Court’s website at <http://www.scourt.go.kr/>.

Since Korean antitrust law was only enforced starting from 1981, decisions made prior to this date should not be searched. To illustrate, assuming a search is performed for a particular Supreme Court case related to fair trade laws using the following information: 대법원 1999.12.20.자 99무42 결정 시정명령 효력정지사건. “대법원 yyyy.mm. dd. 자” indicates that this is a Supreme Court case decided on December, 20, 1999; “99무42” denotes the case number; “시정명령 효력정지사건” indicates that this is an injunction-related case. With this information, the citation can be found by using either internet services or published indices. The easiest method is to use the Supreme Court website. From <http://www.scourt.go.kr/>, click on the Supreme Court Case box, and enter the date 19991220 (yyyymmdd) into the search box. The resulting citation, [공 2000.3.1. (101), 494], includes the following information: “공” means Supreme Court Decision Gazette (판례공보); “2000.3.1” indicates the date that the 판례공보 was published; “(101)” denotes the 101st issue; and “494” is the starting page of the case report.

3. Supreme Court Report (대법원 판례집 Taebobwon Pallyejip)²¹⁾

This is a collection of selected cases from the Supreme Court. Depending on the number of selected cases, three or four volumes are published each year. Reported cases are arranged by date and number, and each volume has a Table of Contents in the front. The year indicated on the cover of each volume does not correspond to the year of publication of the volume, but rather the year for the decisions contained therein. Each volume has three sections, dividing the decisions into civil, administrative, and criminal cases. Antitrust-related cases are typically found in the administrative section.

D. Korean Constitutional Court Cases

Korea's Constitutional Court was established in September 1988. The Constitutional Court is not a part of the ordinary judicial system, but exists as a separate institution. The Constitutional Court's jurisdiction encompasses the power to decide on the constitutionality of laws and to render decisions upon the request of ordinary judicial courts. When the constitutionality of an antitrust-related law is questioned, one of two courts will have jurisdiction over the case. The Constitutional Court will have jurisdiction over legislative enactments such as the MRFTA, while the Supreme Court will have jurisdiction over administrative regulations and decrees.

In terms of case reporters, it is possible to search for antitrust-related Constitutional Court cases in the Korean Constitutional Court Gazette as well as in the Korean Constitutional Court Report.

It is also possible to search for decisions on the Constitutional Court's website at <http://www.ccourt.go.kr/>. For example, a search using the keyword fair trade (공정거래) yields a number of results including the following citation: 헌법재판소“1995.7.21. 94 헌마136 전원 재판부. “헌법재판소” refers to the Constitutional Court of the Republic of Korea; July 21, 1995 is the date of the decision; “Hun-Ma (헌마)” indicates that this is a constitutional complaint filed by one or more individual petitioners pursuant to Article 68 (1) of the Constitutional Court Act; the numbers “94” and “136” indicate that the

fee of 100 won per minute. The service is available from 09AM-10PM on weekdays, and 09AM-5PM on weekends.

21) Prior to 1980, the title of this series was (대법원 판결집 Taebobwon Pangyolchip). Antitrust cases are found only in volumes issued subsequent to 1980, the year in which the antitrust law was enacted. Therefore, it is not necessary to

case was the 136th case filed in 1994; and “전원재판부” means that the case was decided by the full bench of the Constitutional Court.

E. Korean Antitrust Cases in English

At present there is no Korean court report available in English. A few decisions, however, are available at the following sites.

1. KFTC Decisions (Administrative Decisions)

<http://www.apeccp.org.tw/doc/Korea/Case/krcas01.html>

<http://www.apeccp.org.tw/doc/Korea/Case/krcas02.html>

2. Court Cases (Cases of Administrative Litigation)

<http://www.apeccp.org.tw/doc/Korea/Judicial/kjud01.html>

3. Constitutional Court Cases

<http://www.ccourt.go.kr/english/ee.html>

This web page provides abstracts of a selected number of major constitutional court cases translated into English. As the English-language section of the website does not support a search capability, searches must be performed by browsing the available list for relevant cases. Although there are no antitrust cases currently included among the abstracts, the Kukje case (no. 32) is indirectly related to this area.²²⁾

IV. Books & Periodicals in Korean

A. Major Publications of the KFTC

Decisions: KFTC Decision Reports (공정거래심결집)

Judicial Cases: Fair Trade Case Reports (공정거래사례판례집)

consult the 대법원판결집 for antitrust-related rulings.

Annual Reports: Fair Trade White Papers (공정거래백서)²³⁾

Annual Statistics: KFTC Statistics (공정거래통계자료)

B. Publications of the Korea Fair Trade Association (한국공정거래협회)

This private association functions as an intermediary between the government and private companies to foster mutual understanding. The association seeks to improve compliance programs, offer consultation, and provide training to the staff of its member companies. The association also publishes some antitrust-related materials.

Codes: Fair Trade Related Codes (공정거래법규집)

Monthly Magazine: The Monthly Fair Trade (월간공정경제)²⁴⁾

C. Korean Legal Indexes

1. 한국법률문헌색인 (Pomnyul Munhon Saegin; Index to Korean Legal Materials by the Seoul National University Law Library)

This index is published by the Seoul National University Law Library. Volume 1 covers 1945-1976, Volume 2 covers 1975-1985, Volume 3 covers 1986-1992, Volume 4 covers 1993-1995, and Volume 5 covers 1996-1998. Indexed materials include law-related books, theses, research reports, and periodical articles published in Korea. These are arranged under 19 broad subject headings that embrace adjacent subjects such as policy and administrative practice. Antitrust-related materials are indexed under the 15th subject, 경제법 편 (Part 15: Economy-related acts). This index can be accessed on the internet by following the “Law Material Index (법률문헌색인)” link found on the Seoul National University Library Network at <http://solarsnet.snu.ac.kr/>

22) The main issue in this case was divestiture of a chaebol through the use of government power. The claimant argued that governmental influence in the foreclosure of Kukje violated the principles of the market economy prescribed in Article 119 (1) and Article 126 of the Constitution. The claimant also argued that the divestiture violated equal protection under the law guaranteed by the Constitution.

23) The Korean name of the KFTC Annual Report (공정거래연보) was changed to Fair Trade White Papers (공정거래백서) in 1994.

24) This is a monthly magazine containing various information including articles, trends in antitrust policy, and

law/law.htm or <http://library.snu.ac.kr>.²⁵⁾ The Subject Search (주제별 검색) on the web site can be easily used by choosing 경제법편. The subject is then subdivided into 19 sub-headings and further detailed subject headings.

2. 한국법률문헌색인 (Hanguk Pomnyul Munhon Saegin; Index to Korean Legal Materials by the Supreme Court Library)

This index is published by the Supreme Court Library. Volume I was published in 1989, Supplement I-1 in 1990, Supplement I-2 in 1992, Supplement I-3 in 1994, and Volume II in 1997. The main volumes and supplements index all of the legal books, periodicals, serials, articles, and case commentaries contained in the library's collection. Materials are arranged under broader subject headings. Antitrust materials are found under "Economy Related Part (경제)." This index is also available on the Supreme Court's web page at <http://www.scourt.go.kr>.²⁶⁾

D. Library Union Catalogs

1. Seoul National University Library Catalog (Solarsnet II)

<http://library.snu.ac.kr/>

From the library's homepage, choose "Simple Search (간략검색)" or "소장자료 검색 (Advanced Search 종합검색)" under "Collections." Title (서명+우측절단), Keyword in Title (서명+키워드), and Author (저자+우측절단/완전일치) searches are quite useful, while Subject (주제+우측절단), Subject Keyword (주제+키워드) searches are not recommended. Limiting results by using the Book (단행본), Periodicals (연속간행물), or Language options is a helpful way of saving time.

(a) Books

The Seoul National University library uses its own revised version of the Dewey

judicial decisions. It is available through the KFTC website in the Public information materials (홍보자료) section.

25) The Library has changed its address from <http://solarsnet.snu.ac.kr> into <http://library.snu.ac.kr> in August 2002.

26) On the Korean version of the web page, click 사법정보광장 then 종합법률정보, and then 문헌. This index search

decimal classification system. Under this system, legal materials are assigned a number from 340. When researching antitrust law, the Economy-Management category, where numerous antitrust-related materials are classified under the number 338, should also be included in the search. Call number or sub-library (e.g. Law Library) searches, however, are not recommended.

(b) Periodicals

In the Seoul National University Library classification system, periodicals are distinguished from books by the addition of the letter “P” to their call numbers. In the on-line library databases, periodicals are classified as “연속간행물.” When dealing with periodicals, it is useful to note that searching by the name of the publisher (출판사) also works well.

(c) Theses

Theses are arranged separately from other materials. Doctoral theses, which typically contain good bibliographies for special subjects, have the letters TD in their call numbers. Master’s theses have the letters TM in their call numbers. It is possible to search the thesis collections of all Korean universities by using either the National Assembly Library search site or the Riss4U site (described immediately below).

2. Korea Education & Research Information Service (KERIS): Riss4U

<http://www.riss4u.net>

RISS (Research Information Service System), which is managed by KERIS, provides various web-based research information services. Because most Korean universities participate in this service, it is a very useful nationwide search service of university library holdings. RISS offers a one-stop search and delivery service. The UNICAT(Union Catalog) includes comprehensive bibliographic records from 150 universities. Use of the service requires registration for a free membership.²⁷⁾

uses the same search box as the case search.

27) Sample search: selecting Book (단행본) and entering the keyword fair trade (공정거래) in the title field retrieves

V. Books & Periodicals in the U.S.

A. Korean Legal Collections in the U.S.

Ellen G. Schaffer [and] Thomas R. Bruce (ed.), *Directory of Foreign Law Collections in Selective Law Library*, 1991, 273 pages.²⁸⁾

This directory provides information on the holdings of law library collections. The directory is arranged by country and library. Korean collections are found at pages 107-109. According to the directory, the Columbia Law School Library,²⁹⁾ the Marian Gould Gallagher Law Library of the University of Washington,³⁰⁾ the Harvard University Law Library (ILS),³¹⁾ and the Law Library of Congress³²⁾ are the libraries that possess relatively significant quantities of Korean materials. Detailed information regarding the collections of most of these libraries is available on their websites.

B. The Harvard Korean Studies Bibliography

Frank Hoffmann with Matthew J. Christensen, Kirk W. Larsen (comp.), *The Harvard Korean Studies Bibliography on CD-ROM*, The Korea Institute, Harvard University, 1998.³³⁾

This represents the largest and most comprehensive bibliography ever published for books, edited books, book sections, journal articles, theses, and book reviews written in western languages on topics related to Korea. The database includes about 83,000

362 results including the following: (Korean) Democratic-Republican Committee, *Hearings Documents about the Fair Trade Bill (공정거래법(안)에 대한 공청회 속기록)*, Seoul, 1966, 58 pages.

28) Harvard-ILS Ref Desk K68 .D565 1991.

29) Center for Korean Legal Studies — Columbia Law School: <http://www.columbia.edu/cu/korelaw/index.html>

30) East Asian Law Department — Marian Gould Gallagher Law Library, University of Washington School of Law : <http://lib.law.washington.edu/eald/eald.html>.

31) Harvard Law Library (ILS): <http://lib.harvard.edu>.

32) Library of Congress —

: (a) Asian Reading Room: The Library of Congress Reading Room: Korean Bibliography: <http://lcweb2.loc.gov/asian/korbibhome.html>

(b) Global Legal Information Network (GLIN): <http://lcweb2.loc.gov/law/GLINv1/GLIN.html>

(c) Library of Congress Online Catalog : <http://catalog.loc.gov/>

33) Following are excerpts from the User's Guide. You can get detailed information at <http://www.fas.harvard>.

sources and is divided into four independently searchable files, i.e. Theses, Books and Book Sections, Articles 1786-1991, and Articles 1991-1997. This database is not exclusively related to legal materials but it does contain many bibliographical references to English language Korean law materials by both foreign and Korean authors.

A quick search for “antitrust” reveals 35 items, and “chaebol” 34 items, with some including abstracts. The amount of resources in this bibliography makes it an important antitrust resource, though with the caveat that it only covers up to early 1997. Even so, bibliographic information on materials published subsequent to this date should be relatively easy to find on the internet or in library catalogs.

There are approximately 25 data fields, including author and editor, keywords, location, call number, and language. Both simple searches and various combined searches can be performed, and keyword searches produce particularly good results.

C. Locating English-language materials

There are very few English-language materials on Korean law in or outside Korea. As of today, there are no Korean antitrust law-related English periodicals published in Korea. Various English-language books and periodical indices do contain Korean antitrust law-related records, which are in most cases written by Korean or foreign lawyers and scholars. It should be pointed out, however, that such searches are time-consuming but yield few results.³⁴⁾ Nevertheless, what follows is a list of databases that can be searched for Korean legal materials in the English language-though probably without very satisfactory results.

1. RLG Union Catalog (RLIN)

The RLG Union Catalog is a comprehensive database updated daily and serves as a major union catalog covering the entire holdings of participant libraries. Records include the names of contributing libraries as well as the local call numbers in the Version box. Use of the service requires a valid ID, which may be obtained by visiting

edu/~korbib/

34) Based on the author's research experience, well-known databases such as Ulrichs, ILM, or BDIEL tend to

<http://www.rlg.org>.

Keyword search produces good results, and “?” may be used to truncate a search term for effective searching. Selecting “English” from among the various language options enables one to limit results to English-language sources.³⁵⁾

2. Index to Legal Periodicals & Books (ILPB)³⁶⁾

The on-line version of the Index to Legal Periodicals & Books, produced by the H.W.Wilson Company, is a bibliographic database that cites articles from legal periodicals from 1981 and indexes law books published starting from 1993. Periodical coverage includes law reviews, bar association journals, university publications, yearbooks, institutes, and government publications. The index covers all areas of jurisprudence, including recent court decisions, new legislation, and original scholarship.

Nelco: ILP

Go to <http://www.nelco.org/> and then choose “licensed database.” This index does not use LC subject headings, but has its own subject-heading list. Using the “anywhere” option is preferable to the “su” option as there are only a very few Korean materials. One can use “*” for truncation.³⁷⁾

Lexis: ILP³⁸⁾

have very little data on Korean antitrust law.

35) Sample searches: keyword “antitrust” AND keyword “korea” retrieves 56 results including 12 in English;

keyword “competition” AND keyword “korea” retrieves 237 results including 108 in English;

keyword “conglomerat*” AND keyword “korea” retrieves 171 results including 36 in English;

keyword “chaebol” retrieves 167 results including 19 in English.

36) The print version of “Index to Legal Periodicals” (Harvard-Langdell REF or Harvard-ILS RR K33 I54), first published in 1908, is the oldest resource of its kind. In February 1994 the title was changed to “Index to Legal Periodicals and Books” to reflect an expansion in coverage. This index is published monthly, except the month of September, and includes an annual bound volume. The contents are arranged by author and subject heading, including secondary subject headings (e.g. Antitrust- Comparative law), and by jurisdiction (Korea (South)). A list of subject headings appears at the beginning of the annual bound volumes. Additional information about this index may be found at <http://www.hwwilson.com/>.

37) Sample search: “antitrust” in anywhere AND “korea” in anywhere retrieves 7 results;

“conglomerat*” in anywhere AND “korea” in anywhere retrieves 23 results.

38) Westlaw also contains the ILPB database (ILP). Note, however, that this database cannot be accessed with an

Lexis maintains the ILPB database under the name of ILP. Coverage begins with the year 1978, with new records reported within 1 week of publication. Search results are arranged in reverse chronological order by publication date and alphabetically according to the title or author of the article. For segment searches, so-called descriptors should be used to indicate a subject term that describes an indexed item.³⁹⁾

3. Index to Foreign Legal Periodicals (IFLP)

The Index to Foreign legal periodicals indexes articles and book reviews from more than 450 legal periodicals, including journals, essay collections, *festschriften*, and congress reports from 1985 to the present.⁴⁰⁾ The file sources are the American Association of Law Libraries and the law library of the University of California at Berkeley.⁴¹⁾ The index covers the comparative, international, and municipal law of countries other than the United States, the British Isles and the British Commonwealth. Although the index is updated quarterly, it only provides abstracts of indexed articles. Use of the index (<http://www.rlg.org/>) requires a valid account and password. Use of the keyword search option is preferable for searching small jurisdictions.⁴²⁾

educational password. Besides, Westlaw's ATR-TP (ANTITRUST & TRADE REGULATION - LAW REVIEWS, TEXTS & BAR JOURNALS) database contains documents that relate to the promotion of competition and prevention of monopoly and to the regulation of U.S. domestic trade and commerce. Although this database is primarily concerned with U.S. law, it includes a small number of articles that address Korean antitrust law from a comparative law perspective. Although such articles are few, they are relatively good resources.

39) Sample search: "korea" & descriptor ("antitrust") yields 5 results including the following: Abir, Danny, *Monopoly and Merger Regulation in South Korea and Japan: A Comparative Analysis*, 13 *International Tax & Business Lawyer* 143 (1996).

40) Prior to publication of this Index, Szladits' *Bibliography on Foreign & Comparative Law* (ILS RR K38 .B53x) was commonly used. The final volume of the series bearing Szladits' name as editor was that issued for the five-year period from 1978 to 1983. Although subsequent volumes have been issued by other editors, the final volume edited by Szladits is arguably most relevant to Korean antitrust law since the basic law was enacted in 1980. Unfortunately, an examination of Volume 2, Part 4 (Commercial law), Topic F (Cartels, Combinations & Monopolies) (pages 16507-17140) yields no information on Korean antitrust law.

41) The print version (Harvard-Langdell Ref or Harvard-ILS RR K33 I525) is published quarterly. It is arranged by subject and jurisdiction (which covers individual countries, regions, and other collective organizations). Additional information may be obtained at <http://www.law.berkeley.edu/>. In addition to the printed version, the Index is also available electronically on CitaDel through RLG, and on CD-Rom and the internet via SilverPlatter, Inc.

VI. Other Important Internet Resources

A. Korean Government

1. Republic of Korea Government Homepage: Korea Government Computer Center

<http://www.egov.go.kr/>

This is the government information locating service page. All governmental sites may be accessed from here. Links are provided to all government organizations with websites at the different branches of government (i.e., the executive branch, the legislature, the judiciary, municipal authorities, public organizations, or the military).

Contrary to expectations, the Ministry of Finance and Economy website (<http://www.mofe.go.kr/>) is not a particularly helpful resource for locating antitrust-related materials. The news and press releases are, however, generally both quite useful. The Ministry of Justice website (<http://www.moj.go.kr/>) is not a particularly good resource, either. These observations lead to the conclusion that the KFTC is by far the most powerful organization involved in antitrust regulation.

2. Regulatory Reform Service

<http://www.rrc.go.kr/>

The KFTC enforces policies and measures aimed at introducing and extending competition throughout the nation in close cooperation with the Regulatory Reform Committee.⁴³⁾ This service supports limited searches by name of institution, content of regulation, and enforcement date.⁴⁴⁾

42) Sample search: keyword “competition” AND keyword “korea” retrieves 13 results.

43) Kyu Uck LEE, *Competition Policy, Deregulation & Economic Development: the Korean Experience*, Korea Institute for Industrial Economics & Trade, 1998, 471 pages.

44) Sample search: click on the link “KFTC” under the Institutions List to access a current list of KFTC administrative regulations. As of July 5, 2000, there were 82 items. Click on the name of a regulation to access various

B. Korean Research Institutes

1. Korea Development Institute (KDI)

<http://www.kdi.re.kr/>

The Korea Development Institute is an autonomous policy-oriented research organization founded in 1971. The KDI was established by the Korean government as an economic think-tank to provide a rigorous academic perspective with respect to matters of economic policy.

The KDI website is a good resource for new materials, including information on amendments to existing laws. Particularly useful are the working papers, research monographs, and policy study series, all of which are written in English and available in full-text format. Economic policy information is searchable by date, organization, subject, and keyword. Keyword searches seem to produce the best results. Subject searches are not as efficient due to the very broad range of subject matter.

2. The International Development Exchange Program (IDEP)

<http://idep.kdi.re.kr/>

The International Development Exchange Program (IDEP) was established by the KDI in 1982 to promote multilateral economic progress by sharing the Korean development experience with other participating countries and promoting technical cooperation amongst developing countries. The program covers all areas of the economy.

The IDEP website appears in English only, and contains very useful materials, although most of these materials are more economics and economic policy oriented than oriented towards law. Nevertheless, many documents that do not contain the word “law” or “antitrust” in their titles are actually related to antitrust law. “Paper db” is a particularly useful resource, and searching the contents by keyword, listing contents by name, and symposia searches all produce good results.⁴⁵⁾ Some full texts are also available.

information including the type and purpose of the regulation, related acts, date of enforcement, and duration.

45) Sample search: keyword “competition” in “Joint Seminar & Symposia” (without date restriction) retrieves 12

3. Samsung Economic Research Institute (SERI)

<http://www.koreaeconomy.org/>

This site is the English version of the Samsung Economic Research Institute web page. It provides information on Korean economic trends and contains a number of useful databases in the “Data Bank” area. Subscription to the site is free of charge.

C. International and U.S. Organization Internet Sites

1. International Organizations

(a) APEC Competition Policy & Law Database

Database Contents for APEC Member Republic of Korea

<http://www.apeccp.org.tw/doc/Korea.html>

This database contains information related to competition law and policy in Korea. It includes plethora of information (in English) on Korean competition policies and laws, although some of the contents appear to be outdated since 1997. The database also includes Policy Statements, Organizational Structure, Administrative Procedures, Decision Guidelines, List of Publications and Subscription Details, Decisions of Administrative or Quasi-judicial Agencies, Judicial Cases, and Statistical Data.

The database also includes English translations of the 1996 versions of various laws such as the Act and the Enforcement Decree of the Act. These translated versions should be used with great caution, however, as they are not the most up-to-date versions of current laws.

(b) OECD Journal of Competition Law and Policy

<http://www.oecd.org/EN/document/o,,EN-document-71-3-no-15-5418-71,00.html>

The OECD Journal of Competition Law and Policy is a new and unique resource for competition experts in business, law, economics, consulting and academia. Drawing on the best of the recent work produced by the OECD Committee on Competition Law and Policy, the journal provides important insights into the approach of officials entrusted with the enforcement of competition law while focusing on issues of

practical application. The journal is published in English and French on a quarterly basis. Since Korea is a member country of the OECD, materials related to Korean antitrust law and policy do appear in the journal from time to time.

(c) UNCTAD Competition Law and Policy

<http://www.unctad.org/en/subsites/cpolicy/>

Established in 1964 as a permanent intergovernmental body, UNCTAD is the principal organ of the UN General Assembly in the field of trade and development. UNCTAD handles not only international but also domestic trade problems. Because Korea has long been an UNCTAD member country, it would be expected that there would be some Korea-related materials on this site.

Unfortunately, the site is not updated very frequently. Moreover, it is difficult to determine the precise extent of Korea-related materials since the site does not yet support searches. Therefore, the best one can do at present is to browse among the links for relevant materials to see whether or not the word “Korea” is included in the titles. The full text of some documents is available.⁴⁶⁾

results, including Nam-Ki LEE, “Basic Korean Fair Trade Policy Direction and What It Suggests,” 1996.

46) Sample search #1: The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices

The Set of Principles and Rules applies to restrictive business practices, including those of transnational corporations, adversely affecting international trade, particularly that of developing countries and the economic development of these countries. It applies irrespective of whether such practices involve enterprises in one or more countries. The Set of Principles and Rules shall neither apply to intergovernmental agreements, nor to restrictive business practices directly caused by such agreements.

Sample search #2: Documents On Line

TD/B/RBP/81/Rev.5 - Continued Work on the Elaboration of a Model Law or Laws on Restrictive Business Practices (Draft commentaries to possible elements for articles of a model law or laws, prepared by the UNCTAD secretariat, 70 pages, 210K bytes).

Sample search #3: List of Publications

UNCTAD/ITCD/CLP/Misc.4 - Control of Price-fixing and Collusion tendering arrangements

Again, the only way to determine for certain whether or not a particular document relates to Korea is to check its

2. United States Organizations⁴⁷⁾

(a) Federal Trade Commission: Antitrust/Competition

<http://www.ftc.gov/ftc/antitrust.htm>

This is the official website of the U.S. Federal Trade Commission and is a very comprehensive and up-to-date resource for U.S. antitrust materials. Although it is possible to search the contents of the site by using the keyword “Korea” (a search that actually yields a large number of documents), the retrieved documents will in most cases have nothing at all to do with Korean antitrust law (rather, they will pertain to, e.g., a Korean video rental shop in California). Nevertheless, it is a good idea to visit this site from time to time on account of the heavy influence of U.S. antitrust policy upon Korean antitrust policy.

(b) Department of Justice: Antitrust Division

<http://www.usdoj.gov/atr/index.html>

On this site one may search indirectly for Korean antitrust-related materials by selecting “public documents,” and then “international documents.” As of August 2001, Korea had not yet become a party to any “Antitrust Cooperation Agreement” (ACA) within the meaning of United States Code Title 15 (Commerce and Trade), Chapter 88 (International Antitrust Enforcement Assistance), Section 6201 (Disclosure to Foreign Antitrust Authority of Antitrust Evidence). Nevertheless, it might be useful to check this site from time to time to see not only whether Korea has become a party to any such agreement, but also for information regarding ACAs concluded between the United States and other countries, including possible ramifications for Korean antitrust policy stemming therefrom.⁴⁸⁾

contents.

47) One can get some useful links on http://www.lexisone.com/legalresearch/legalguide/practice_areas/antitrust_trade_law.htm.

48) In accordance with an antitrust mutual assistance agreement in effect under this chapter, which is subject to section 6207 of this title, and except as provided in section 6204 of this title, the Attorney General of the United States and the Federal Trade Commission may assist by providing evidence to a foreign antitrust authority with respect to

Although not directly related to Korean domestic antitrust law, it may also be useful to reference the ICPAC (International Competition Policy Advisory Committee), which was formed in November 1997 to address the global antitrust problems of the 21st Century, for documents discussing the application of U.S. antitrust-related policies to Korea.⁴⁹⁾

(c) ABA Antitrust Section

<http://www.abanet.org/antitrust/home.html>

This is the website of the antitrust section of the American Bar Association. A search for the keyword “South Korea” yields results in both full-text and summary format. Summary format includes only paragraphs that include the search term “South Korea.”⁵⁰⁾

(d) The American Chamber of Commerce In Korea (AMCHAM)

<http://www.amchamkorea.org/>

The basic aims of AMCHAM are to promote and protect the interests of member companies operating in Korea and to represent and relay the opinions of the American business community to the Korean government, Korean trade and industry associates, and U.S. government officials. Pursuant to these functions, AMCHAM compiles Korean economic information, publishes a newsletter and journal, and hosts seminars on topics of current interest. Although the AMCHAM website does not contain antitrust-related materials per se, useful information on the Korean economy in general can be found in the “Issues” section under “Information Resources,” as well as in the “Publication” section under “Services.”

which such agreement is in effect under this chapter.

49) Sample search: keyword “korea” retrieves 79 matching documents (as of February 2, 2002) including ICPAC’s HEARINGS at Washington, D.C. on November 2-4, 1998.

50) Sample search: searching the antitrust section for keyword “South Korea” retrieves 2 results, including Oct.12, 2000: Report of the ABA sections of antitrust law and international law and practice on the internationalization of

VII. News

A. Korean Integrated News Database System (KINDS)

<http://www.kinds.or.kr/>

This integrated news database service is provided by the Korea Press Foundation. It covers all newspapers, newswatches, TV news, and news journals from approximately the past six years. The news sources contained in this database can be searched either comprehensively or individually. It should be noted, however, that updates of individual news publications tend to be delayed somewhat in comparison to the websites of these same publications.

On this site it is also possible to conduct either comprehensive or individual searches of the contents of the two major English-language dailies published in Korea, the Korea Times and the Korea Herald. Searching on this site is aided by use of the truncation search signal @ before or after search terms, as well as by boolean operators. Subject and history searches are also possible. The total number of hits can be viewed by clicking the “last” button.⁵¹⁾

B. Major English Newspapers in Korea

1. Korea Times: <http://www.koreatimes.co.kr/>

Published by one of the largest newspaper companies in Korea, the Hankook Ilbo (The Korea Daily), the Korea Times is an influential English-language daily published continuously since 1950. The newspaper’s website contains a searchable Archives section after 1998, and the retrieved search terms appear as highlighted text.

2. Korea Herald: <http://www.koreaherald.co.kr/>

Published continuously from 1953, the Korea Herald is the other major English-

competition law rules: coordination and convergence.

51) Sample search: in English-language papers, keyword “FTC” with time restriction “from Jan.1, 2000” retrieves 366 results including the following: Fair Trade Commission Plans to Get Tougher With Chaebol (title) KOREA

language newspaper in Korea. This newspaper's website provides the Search Archives after 1999, and search terms appear as highlighted text in retrieved articles.

C. Business Newspapers in Korea

1. Maeil Business News: <http://news.mk.co.kr/>

The Maeil Business News was first published in 1966 and remains the leading business daily in Korea. The Korean-language version of the website includes an electronic dictionary of economic terms. The English-language version of the site can be accessed by clicking on the "English News" link in the left-hand column of the main page.

2. Korea Business Weekly: <http://english.hankyung.com/>

The Korea Business Weekly focuses on the Korean economy and other issues concerning the business environment in Korea. A sister publication of the Korea Economic Daily, the Korea Business Weekly is intended to serve as a business and economic information resource for corporate executives both in and outside of Korea. The website allows users to search archived material from the past three months.

D. Korean Economic News in the U.S.

News sources are useful not only when looking for a specific article or articles about a specific topic, but may also be helpful in pinning down a date or other critical information needed to find a law or a case in another source. At first glance it may appear from the list below that there are numerous Korea-related news databases compiled in the U.S. The caveat is that, even though such sources may appear to be in abundance, the original source providers are in most cases the very same Korean media companies identified above. Indeed, it may be said that several of the following databases provide little in the way of new content. This fact, combined with the delay between the time a news source is published and the time it appears in the database suggests that it may be preferable to access the website of a particular news source directly when looking for news on Korea or other Asian countries.

1. Westlaw⁵²⁾

(a) ATRNEWS (Antitrust & Trade News)⁵³⁾

This database contains news and information related to antitrust and trade from newspapers, magazines, journals, newsletters, transcripts, and wires as provided by Dow Jones Interactive to the West Group. A document may be an article, column, letter, briefing, or other section of text. Coverage begins with January 1984. The major Korean contributors to this database are the Korea Times and the Korea Herald. An initial search of the database will run against the most current three years unless a date restriction is included as part of the query or request.

(b) BNA-ATR (BNA Antitrust & Trade Regulation Database)⁵⁴⁾

These databases contain documents that relate to the promotion of competition and prevention of monopoly and to the regulation of domestic trade and commerce. Documents report on and analyze legislative, judicial and administrative activities, with summaries of current developments, digests of court and administrative agency decisions, and the full text of selected regulatory and legislative materials and important court rulings. Coverage begins from January 1986.

Because this database contains many news and short articles pertaining to Korean antitrust law, it will probably be necessary to use additional keywords besides “antitrust.”

(c) KOREAINDUP (Korean Industry Update)⁵⁵⁾

This database is provided by Dow Jones Interactive to the West Group. A document may be an article, column, letter, briefing, transcript, or other section of text. This

TIMES (publication) 20000407 (date).

52) The following have been excerpted from each database's content information on Westlaw.

53) Main Directory > Topical Materials by Area of Practice > Antitrust & Trade Regulation > Antitrust & Trade News

54) Main Directory > Topical Materials by Area of Practice > Antitrust & Trade Regulation > BNA Antitrust & Trade Regulation Materials > BNA Antitrust & Trade Regulation Database

55) Main Directory > International/Worldwide Materials > Asia and the Pacific Rim > Individual Country

database contains selected coverage of daily (Mon.-Fri.) business news wire that is a unique source of South Korean industry news covering 15 major industries. Coverage begins with October 1997. New issues are added as electronic updates become available, which is generally three days after publication. This means that the business data contained in the database are typically outdated to be considered newsworthy.

(d) BUSKOREA (Business Korea)⁵⁶⁾

This database contains abstracts of a monthly business magazine providing news and information on Korean, Asian and other international business, trade and economics. Coverage begins with January 1994 and is updated as new issues become available. Although the database focuses on business topics, it is not a particularly good source for researching antitrust laws.

(e) KOREATINV (Korea Trade & Investment)⁵⁷⁾

This database contains selected coverage of a weekly business magazine providing in-depth stories on the Korean investment and business climate. Coverage begins with November 1997. New issues are added as electronic updates become available, which are generally three days following publication. This database concentrates on international matters, so is not a good source for researching domestic aspects of Korean trade and investment.

Materials > South Korea > News & Business > Korean Industry Update

56) Main Directory > International/Worldwide Materials > Asia and the Pacific Rim > Individual Country
Materials > South Korea > News & Business > Business Korea

57) Main Directory > International/Worldwide Materials > Asia and the Pacific Rim > Individual Country
Materials > South Korea > News & Business > Korea Trade & Investment

2. Lexis⁵⁸⁾

(a) KHERLD (Korea Herald)⁵⁹⁾

As stated above, the Korea Herald is a daily newspaper published in Korea. Coverage of this database begins with August 1998. New issues appear in the database within 36 hours of publication.

(b) KTIMES (Korea Times)⁶⁰⁾

As stated above, the Korea Times is another daily newspaper published in Korea. Coverage of this database begins with January 1998. The database is updated on an irregular basis but as soon as new material is received from the publisher.

(c) SKOREA (South Korea Country Files)⁶¹⁾

This database includes source material from the Asia Intelligence Wire, the Korea Herald (KHERLD), and the Korea Times (KTIMES) and contains business analysis, country profiles and selected news documents pertaining to South Korea. It is of somewhat limited utility, however, because it contains only abstracts and is updated infrequently.

(d) AWS (Asian Wall Street Journal)⁶²⁾

This publication is a popular financial newspaper in Asia, and frequently has articles on Korea-related topics.

58) The following are excerpts from the content summaries of source information on Lexis.

59) News > By Country & Region > South Korea > Korea Herald

60) News > By Country & Region > South Korea > Korea Times

61) Country & Region (excluding U.S.) > South Korea > Country Reports > South Korea Country Files

62) News > By Country & Region > Asia Pacific > News > Asian Wall Street Journal Weekly Abstracts

VIII. Directories

Directories are one of the essential non-legal resources that make it possible to contact individuals or organizations, although of little academic value.

Gale Research Inc., *Directories in Print*, 21st ed. vol. 1 & 2, 2002.⁶³⁾

This resource may be consulted to determine the kinds of directories that are available in Korea. In Volume 2, the index volume, “Korea” is found under the Title & Keyword Index. There are six current Korean directories, although the total number is 10. Having found the given number, which is allotted to each directory by the editor of the series, in Volume 2, see Volume 1 for the Descriptive Listings. Information provided includes the name of the directory, address of publisher, description of contents, language and frequency of publication, price, etc.

A. White Pages & Yellow Pages

1. HanMir: <http://www.hanmir.com/>

HanMir provides a comprehensive internet portal service including telephone numbers and map search services. Select “telephone number search service (전화번호 안내)” to find the telephone number of an individual, government, company, or organization along with its address and a map of its location.

2. Yellow Pages for Foreigners

BiG Yellow Pages: Korean National Community & Business Directory, Yellow Pages Korea Ltd., 2001, softbound, 440 Pages.

This resource is published especially for foreigners, and includes homepage and e-mail addresses in addition to phone numbers (denoted with an “E” where the use of English is acceptable). Although it appears daunting and complex at first sight, the internet portal site <http://www.yellowpages.co.kr/> is a very useful resource.

63) Harvard-Langdell KAY 2001 .Z99 .D57. There is usually an annual supplement.

B. Individuals

1. KFTC Commissioner: <http://www.ftc.go.kr/>

From the English version of the start page, follow the links to the Organizational Chart for information in English regarding the academic training, career background, and date of birth of various KFTC officers and commissioners, along with a face photo.

2. Antitrust Specialists in Korea

<http://www.apeccp.org.tw/doc/Korea/Academy/krspe1.html>

This is a list of antitrust specialists, including lawyers, government officers, professors, and economic experts, compiled for APEC by the Taiwanese Fair Trade Commission. The list, which includes the names of fourteen antitrust specialists in Korea, should be used with caution, as some of the current information may be inaccurate or out-dated.

3. Who's who

(a) Who's Who of Korean People

<http://people.joins.com/>

The JOINS Who's Who database is compiled by the Korean newspaper JoongAng Ilbo, and profiles many of the most accomplished people in Korea from all professions. The Korean version is one of the largest among the JOINS Who's Who databases and provides detailed and analytical information for over 140,000 individuals. This is a pay service. Users can search the database by name, occupation, or institution.

(b) Who's Who in English

Yonhap News (ed.), Korea Annual, Yonhap News Agency, English, 2001 (annual), 800 pages.

The printed version of this resource includes a list of prominent Korean individuals

in English. By contrast, the on-line version of this resource (<http://www.yonhapnews.co.kr/>) is limited to information in Korean. The on-line version is free and is keyword searchable by name, place of birth, and occupation.

For example, a search using the keyword “KFTC Commissioner (공정거래위원회)” retrieves a list of current and former commissioners complete with photos, curriculum vitae, and publication lists.

4. Government Officials

- (a) News Source Directory 2000 (정보원총람 2000),
Korean Press Foundation, 2000, 1408 pages.

In this directory, organizations and specialists are arranged by subject or area of expertise. Information provided includes URL, e-mail address, and name of publicist. The directory consists of three sections: Organizations, Specialists, and Source Network. Although the Specialists section is well designed overall, the list of specialists itself is not sufficiently comprehensive to be of great help to researchers.⁶⁴⁾

- (b) Korean Missions: http://www.mofat.go.kr/mission/missions_map_en.mof

Inquiries can also be made through embassies and consulates of the Republic of Korea. The Ministry of Foreign Affairs and Trade administers a culture and information service through each embassy or consulate. Because the scope and availability of such information varies from country to country, however, it is better to rely on information provided centrally through the Korea Overseas Information Service (KOIS) at <http://www.kois.go.kr/>.

5. Business People

Korean Business People's Directory (재계인사록) Print & CD-Rom, The Federation

64) To locate people employed by antitrust-related organizations, select Organization (기관정보원), then Politics (정치), then Law (법), and then MRFTA (공정거래법); Politics (정치), then Administration (행정), then Government-Corporate Relations (정부기업관계); or Regulatory Policy (규제정책행정).

of Korean Industries, Annual.

The publisher of this index, the Federation of Korean Industries (<http://www.fki.or.kr/english/index.htm>), serves a membership that is generally restricted to large Korean corporations. Nevertheless, the Korean Business People's Directory provides information regarding a broader section of the Korean business community, including journalists and other individuals engaged in occupations related to business and the economy.

6. Journalists

<http://www.oseo.com/people/journalist/journalist.asp> provides a list of journalists assigned to cover the legal community.

C. Companies

Directory of Major Korean Corporations (한국 주요 기업사전), The Federation of Korean Industries, 2001, 708 pages.

The Federation of Korean Industries, which publishes the Korean Business People's Directory (재계인사록), also issues the Directory of Major Korean Corporations.

The Korea Securities Depository (한국 증권예탁원) provides company profiles in Korean on <http://www.ksd.or.kr>.⁶⁵⁾

<http://kr.ec21.com> and <http://eckorea.net> provide small and medium Korean company information both in Korean and in English.

Lexis provides Korean company information.⁶⁶⁾ The Lexis' information, however, is too fragmentary and out-of-date to be of much use. A better option is to browse Korean company profiles which are provided by many security-related information sites.⁶⁷⁾

65) On the site, click Security Information (증권정보), and then Company Profile (기업조회).

66) Country & Region (excluding U.S.) > Asia & Pacific Rim > Company & Financial > Asia/Pacific Company Information Sources.

67) On the Stock Smart Pro website at http://www.stocksmart.com/fdir_KR.html, major Korean companies are arranged alphabetically. This site permits 7-day free trial.

D. NGOs

1. Center for Clean Companies

<http://www.watchcom.org/>

This site performs a watchdog function with respect to corporate conglomerates. Accordingly, its organization and major functions correspond to various antitrust-related issues. The Center is powered by the most representative NGO group in Korea, the Citizens Coalition for Economic Justice (CCEJ 경제정의실천연합회),⁶⁸⁾ a grass-roots citizens' organization that promotes sustainable economic and social development in Korea. The CCEJ also runs the Korean Economic Justice Institute (KEJI 경제정의연구소).⁶⁹⁾

2. Participatory Economy Committee (PEC)

<http://peoplepower21.org/economy>

The PEC of the People's Solidarity for Participatory Democracy (PSPD 참여연대) works to enhance the Korean economic structure by urging corporations to promote transparency and responsibility in management. Major concerns include the promotion of minority shareholders' rights, chaebol policy, and the chaebol restructuring process. The PEC's website provides some information on antitrust law.

E. Korean Lawyers

The Korean legal market is not as of yet specialized enough to justify a directory organized according to lawyer's specialization. Although such a directory could conceivably be compiled for Korean patent attorneys, it is important to note that patent attorneys are licensed through a separate process and excluded from all legal directories in Korea.

68) <http://www.ccej.or.kr/english/main.html>.

69) <http://www.keji.or.kr/>.

1. In print

Hanguk Popchoin Taegwan, Korean Lawyers Directory (한국법조인대관), Pomnyulsinmunsa, 2000, 2214 pages.

This is the most popular of the available directories of Korean lawyers. It provides short descriptions of name, birth, family, education, career background, and current position, and includes color photos for all Korean lawyers including judges, prosecutors, and trainees. As the directory is published irregularly, there is a possibility that information regarding current positions may be outdated.

2. Web search in Korean

Searchable information on the Korean legal profession, including lawyers, judges, and prosecutors, is available on the following legal information service sites.

<http://www.lawtimes.co.kr/information/lawyer/login.asp> (fee)

<http://www.lawkorea.com/lawyer1/index.htm>

<http://www.kolis.co.kr/> (better search capabilities, for a fee)

https://www.oseo.com/people/lawyerSearch/search_02.asp (partially free)

https://www.oseo.com/people/organ/organ_bup0.asp

3. Korean Lawyer Search in English

(a) The Asia Pacific Legal 500

On-line version: <http://www.icclaw.com>

The Legalease, a publishing company in London, runs the International Centre for Commercial Law as its official site of the Legalease 500 series. If you click Asia Pacific or choose South Korea, you can see Overview, Recommended Firms, Law Firm Directory, and etc.

Print version: The Asia Pacific Legal 500, John Pritchard (ed.), 1999/2000, 776 pages.

This is a guidebook to Asia's commercial law firms, and is published annually. South Korea is at pages 531-557. The information is divided by subject such as

Corporate & Commercial, Banking & Finance, IP, and etc. In addition, the law firms are listed by name, with some foreign law firms with Korea experience also listed.

(b) Martindale-Hubbell Lawyer Locator

On-line version: <http://lawyers.martindale.com/marhub>

Select Korea in the countries box for information on roughly 500 lawyers with expertise related to Korea. Each entry includes personal information such as position, age, education, language, address, phone, and e-mail address, as well as law firm information. Although the criteria used in compiling the database remains a mystery, and although information is updated infrequently, this lawyer locator is a relatively useful resource among U.S. legal directories.

Print version: Martindale-Hubbell International Law Directory. 4 vols, Summit, N.J., Martindale-Hubbell, 1991.⁷⁰⁾

As with the on-line version, Volumes 1 to 3 of the print version comprise the Law Directory, while Volume 4 is the International Law Digest, an English-language guide to the laws of 75 countries worldwide.

(c) Find International Counsel from West Legal Directory

<http://www.lawoffice.com/direct/direct.asp?form=ints>

This service provides addresses and contact information, and in a few cases, hyperlinks to law firms. Selecting country name (Korea), and practice category (antitrust & trade regulation) yields only 1 result. Therefore, it is better to limit the search only by country. Unfortunately, the results screen does not show the total number of hits. As with many of the other resources discussed above, this service should be used with a degree of caution as the information it contains is updated relatively infrequently.

(d) Prints

James R. Silkenat and William M. Hannay (ed.), A Guide to Foreign Law Firms,

⁷⁰⁾ Harvard-ILS RR KF 190.M34.

American Bar Association: Section of International Law and Practice, 3rd ed., 1999, 355 pages.⁷¹⁾

Asia Law Profiles 2000, Asia Law & Practice, A Euromoney Company, 1999, 459 pages.

The AsiaLaw Profiles 2000 contains detailed information regarding the legal markets of over 18 key Asian jurisdictions as well as in-depth profiles and rankings of leading local and international law firms.

IX. Summary

Starting in 1996, Korean government organizations began to disseminate information to the public pursuant to the provisions of the “Act on Disclosure of Information by Public Agencies.” Although most of this information had been publicly accessible prior to this time, the government had, for fiscal and other reasons, been very parsimonious in making information pertaining to its operations more widely available. For example, because many governmental publications were “not for sale (매 품)” citizens were forced to visit relevant governmental agencies or major libraries in order to gain access to the information. By contrast, nearly all publicly available government information is now distributed through the internet. At the very least, government organizations are now equipped to deliver requested information through the internet, e-mail, telephone, fax, or post. Although some of the information disseminated through the internet may be inaccurate or susceptible to questions of authenticity, few would deny the usefulness of the internet as a primary reference resource.

When researching a specialized subject such as Korean antitrust law, the official website of the relevant governmental authority, <http://www.ftc.go.kr/> should be among the first resources consulted. In this connection, the government portal site at <http://www.egov.go.kr/> offers significant assistance in locating relevant official information resources. For those with little or no prior experience with Korean law, not the least expertise in the Korean language, it is probably best to start with the general English-language information sources accessible through <http://www.korea.net/>.

71) Harvard- ILS RR K68 .G85 1999.